

// A regular meeting of the Council of the City of Lynchburg was held on the 10th day of January, 2006, at 7:30 P.M. in the Council Chamber, City Hall, Carl B. Hutcherson, Jr., President, presiding. Vice Mayor Foster gave the Invocation, followed by the Pledge of Allegiance. The following Members were present:

Present: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Absent: 0

// Following the Pledge of Allegiance, Vice Mayor Foster made a motion to hold a closed meeting as permitted by Section 2.2-3711(A)(1), Code of Virginia (1950), to discuss the Mayor's performance. The motion was seconded by Council Member Johnson. Council Member Dodson stated that he did not understand the purpose for the closed meeting, that any discussion regarding the Mayor should be in open session, and that he would not attend or participate in the closed meeting. The vote was called on the motion, and Council by the following recorded vote approved the motion to hold a closed meeting:

Ayes: Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 6

Noes: Dodson 1

// City Council Dodson remained in the Council Chamber while the other members of City Council adjourned to a meeting room behind the Council Chamber to conduct the closed meeting.

// Council Members who attended the closed meeting returned to the Council Chamber and the meeting was re-opened to the public.

// After City Council reconvened following its closed meeting, Mayor Hutcherson turned the chair over to Vice Mayor Foster in order to consider Council's certification resolution and any statements by Council Members concerning the closed meeting.

// Clerk of Council Patricia Kost stated that during the closed meeting Mayor Hutcherson, Vice Mayor Foster and Council Members Gillette, Johnson, Helgeson and Seiffert were present and that Council Member Dodson was absent. Ms. Kost then read the following certification resolution into the record:

WHEREAS, the Council of the City of Lynchburg convened a closed meeting on this date, pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by City Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Lynchburg certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by Council, and (iii) that during the closed meeting Council Members Seiffert, Helgeson and Gillette urged the Mayor to resign his position as Mayor.

Council Member Gillette made a motion to adopt the certification resolution. The motion was seconded by Council Member Seiffert, and Council by the following recorded vote adopted the certification resolution:

Ayes: Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 6

Noes: Dodson 1

// Mayor Hutcherson made the following statement..."I certainly respect the sentiments expressed by my fellow Council Members tonight, but I'm firm in my conviction to finish the job that I was elected to do. I will fight the federal government's accusations and I'm confident that after a fair and open trial in which people understand and respect the presumption of innocence that I will be found not guilty of all accusations. I will keep doing the City's business until my term expires which is not too long from now. Thank you."

// Vice Mayor Foster asked if any Council Members wished to make a statement.

// Council Member Seiffert stated that he would like to give a short statement to clarify his position—"Carl has never talked to me about these issues and legal problems since this broke in the News & Advance on Tuesday March 1, 2005. Since that time and until he made his announcement on December 16, all members of Council have been supportive of him personally and have refrained on any real discussion about all this publicly. In October he stepped aside from moving up to be the President-elect of the Virginia Municipal League. On December 7 he stepped down from his pastor duties at his church. On December 15 the News and Advance in an editorial said "he has already stepped down as pastor of Trinity United Methodist Church, saying he did not want to cause the Church "further embarrassment". He owes as much respect to the City and its people..." "The City's reputation and the integrity of Council should not be allowed to be tarnished by this sort of incident"..." Like it or not, Mayor Hutcherson's personal problems do reflect on the City and that reflection is growing dimmer by the day" "His resignation would restore some measure of the public trust that the residents have placed in their city government." I had hoped that Carl would do the right thing and step down. By not doing so means continuing media exposure, statewide, that can only be described as a negative influence for our City and its reputation. Every day people stop me and engage me in a discussion by asking why Council cannot remove Carl from the Mayor's position. There has been only one person who talked to me that felt Carl should remain as Mayor. It is a distraction for all of us every day. I told Carl after his announcement that I thought his refusal to step aside was not right thing for him to do. This is bigger than Carl. It affects the whole City. I voted three times for Carl to be Mayor...2000 — 2002 and 2004. I ask him now to please step down from the Mayor's position. Whatever happens, tonight, I hope that Council can overcome this atmosphere and continue to move forward in a positive manner and do the people's business with grace and dignity." I will tell you this, I love Carl Hutcherson like a brother, but this is just bigger than the individual. Thank you.

// Council Member Helgeson stated that he had a resolution that he would like to bring forward. Council Member Helgeson went on to say that although it pains him to bring the resolution forward, he thinks that after hearing Council's discussions, that it is only appropriate that he bring this resolution forward at this moment which states how he personally feels about the issue.

"The purpose of this resolution is to state the position of the members of this governing body, which is duly elected to represent the citizens of Lynchburg, Virginia.

WHEREAS the members of this council were chosen by qualified electors in the City of Lynchburg, and

WHEREAS the mayor is chosen by this council by motion approved by a simple majority, and

WHEREAS the members of this council serve the citizens of Lynchburg as caretakers of the fiscal resources of this city for the purpose of governing the affairs of City government, and

WHEREAS a significant prerequisite to overseeing the fiscal affairs of this City must be to have one's own financial house in order, and

NOTWITHSTANDING the criminal indictments with which the Mayor is charged, as he is to be considered innocent until proven guilty, and

NOTWITHSTANDING the great love that the Mayor has for the citizens of Lynchburg, and

NOTWITHSTANDING the personal affection that this council, the administration and staff and citizens throughout Central Virginia have for the Mayor personally, but

WHEREAS several important facts have recently become a matter of public record, which show the Mayor has been delinquent in meeting personal and business obligations, and

WHEREAS the Mayor has failed to meet such financial obligations with local, state and even federal government entities in a timely manner with his own resources, and

WHEREAS it is incumbent upon this council to protect the integrity and public trust of this council generally, and the office of mayor particularly, and to take such actions as are necessary to instill confidence among citizens toward the stewards of the City's resources.

NOW, THEREFORE BE IT RESOLVED that:

1. This Council urges Carl B. Hutcherson, Jr. to step down immediately as Mayor, and
2. This Council urges Carl B. Hutcherson, Jr. to resign his seat as a council member-at-large.

THIS RESOLUTION shall become effective immediately upon its adoption by a majority vote of this council."

Council Member Helgeson made a motion to adopt the Resolution. The motion died for lack of a second.

// Council Member Johnson stated that Council received information in December from City Attorney Walter Erwin stating that Council had no power to force the Mayor to do anything, that the consenting resolution stated the names of those who asked him to resign, that the Mayor has told the City, Council and everyone what he intends to do, and that Council has wasted precious time that could have been spent on the City's business. Council Member Johnson further stated that the proposed resolution is a travesty, that he had no prior knowledge regarding the resolution and was not consulted regarding the language in the resolution, and that he did not have any part in the resolution.

// Vice Mayor Foster turned the meeting back over to Mayor Hutcherson to continue with the business of the City.

// Copies of the minutes of the December 13 (two meetings), 2006 meetings, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Seiffert, seconded by Council Member Johnson, Council by the following recorded vote approved the minutes as presented:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// In the matter of Public Works - Refuse, Resolution #R-05-154 amending the FY 2006 Solid Waste Management Operating Fund budget and appropriating \$13,437, fully reimbursable, for the continuation of litter control and recycling activities, laid over from the December 13, 2005 meeting, was again presented and read, and on motion of Council Member Seiffert, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

// In the matter of Schools, Resolution #R-05-156 amending the FY 2006 Operating Budgets for the General, Schools Operating and Schools Capital Projects Funds to appropriate Schools FY 2005 return of unexpended fund balance, laid over from the December 13, 2005 meeting, was again presented and read, and on motion of Council Member Seiffert, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

// In the matter of City Code, a public hearing was held regarding City Council Report #4 regarding adopting an Ordinance to amend the City Code to require owners to clean up after their dogs. City Manager Kimball Payne explained that the purpose of tonight's public hearing is to receive comments regarding a proposed ordinance drafted by the City Attorney to require owners to clean up after their dogs defecate on public property or private property without permission. Mr. Payne went on to say that following the December 13 work session, the proposed ordinance was revised to incorporate City Council's request that the penalty for the violation of the ordinance be changed from a "class 4 misdemeanor" to a \$50 fine. Mr. Payne also explained that the Police Department would not be in a position to enforce the ordinance and that in order to charge someone with a violation, the person observing the violation must appear before the magistrate and provide the magistrate with the information necessary for the issuance of a summons or warrant. Mark Borel, representing a number of local groups including residents of Wyndhurst, urged City Council's adoption of the proposed ordinance stating that the problem of dogs defecating on public property is becoming a health issue and that the citizens cannot enjoy the City's green spaces because they are becoming litter boxes for dogs. Kelly Wilson also spoke in support of the proposed ordinance and asked that signs be erected notifying everyone that they needed to cleanup after their pets. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Dodson suggested further discussion at another work session before making a final decision because he did not believe that a majority of citizens supported the ordinance. Other Council Members commented that the matter had been discussed at a previous work session and that they were ready to vote on the issue tonight. Following discussion, and on motion of Council Member Seiffert, seconded by Council Member Gillette, Council by the following recorded vote adopted Ordinance #O-06-001, as presented, amending the City Code to require owners to clean up after their dogs defecate on public property or private property without permission:

Ayes: Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 6

Noes: Dodson 1

// In the matter of Housing Authority, a public hearing was held regarding City Council Report #5 regarding a request from the Lynchburg Redevelopment and Housing Authority (LRHA) for authorization to pursue acquisition of blighted property at 103 Jackson Street under Section 36-19.5 of the Code of Virginia. LRHA Development Assistant Connie Snively provided a brief overview regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Dodson, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-06-002, as presented, approving a request from the Lynchburg Redevelopment and Housing Authority for authorization to pursue acquisition of blighted property at 103 Jackson Street under Section 36-19.5 of the Code of Virginia:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// In the matter of Police - General, a public hearing was held regarding City Council Report #6 regarding introducing a Resolution amending the FY 2006 City/Federal/State Aid Fund and appropriating \$1,858,525, fully reimbursable, to fund the Community Oriented Policing Services (COPS) Interoperable Technology Program. City Manager Kimball Payne provided a brief summary of the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Johnson, seconded by Council Member Seiffert, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-06-003, as presented, amending the FY 2006 City/Federal/State Aid Fund and appropriating \$1,858,525, fully reimbursable, to fund the Community Oriented Policing Services (COPS) Interoperable Technology Program:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// In the matter of Fire - General, Melinda Wheeler presented a petition signed by approximately 101 individuals asking that City Council ban open air burning in the City. Ms. Wheeler went on to say that she has become ill from smoke from the burning of leaves and other items, including household trash, and cited concerns for the elderly and individuals suffering from allergies and asthma who are suffering from second hand smoke inhalation. Ms. Wheeler explained that the toxins that are released into the air, particularly from household trash, aggravates allergies and can cause respiratory problems. Following the presentation, City Council asked that this item be scheduled for discussion at a future work session.

// In the matter of Housing Authority, City Council Report #8 regarding authorizing Lynchburg Redevelopment and Housing Authority (LRHA) issuance of \$16,000,000 Revenue Bonds to KHM Properties – Lynchburg, LLC was considered. LRHA Executive Director Ed McCann provided a brief summary of the request. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-06-004, as presented, authorizing Lynchburg Redevelopment and Housing Authority issuance of \$16,000,000 Revenue Bonds to KHM Properties – Lynchburg, LLC:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// In the matter of Community Planning - General, City Council Report #9 was considered. On motion of Council Member Helgeson, seconded by Vice Mayor Foster, Council by the following recorded vote adopted Resolution #R-06-005, as presented, approving the street dedication of a public street off of Old Boonsboro Road, and naming the new street "McKenna Circle":

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// In the matter of Human Services - General, City Council Report #10 was considered. On motion of Council Member Johnson, seconded by Council Member Seiffert, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-06-006, as presented, amending the FY 2006 City/Federal/State Aid Projects Fund and appropriating \$20,220, fully reimbursable, to fund the development of a Child Interview Center to address the significant needs of severely physically and/or sexually abused/neglected children in Lynchburg:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// In the matter of Public Works - General, City Council Report #11 regarding approving amendments to the Implementation Procedures and Guidelines for the Public-Private Transportation Act of 1995 and the Public-Private Education and Facilities and Infrastructure Act of 2002, as amended, was considered. City Manager Kimball Payne provided a brief summary regarding the request. On motion of Council Member Johnson, seconded by Council Member Helgeson, Council by the following recorded vote adopted Resolution #R-06-007, as presented, approving amendments to the Implementation Procedures and Guidelines for the Public-Private Transportation Act of 1995 and the Public-Private Education and Facilities and Infrastructure Act of 2002, as amended:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// The meeting was recessed at 9:25 P.M. to January 24, at 11:45 A.M., to meet with the Lynchburg Industrial Development Authority Board at Jonathan's Restaurant.

Clerk of Council